

COUNTY OF INYO

INYO COUNTY ENVIRONMENTAL HEALTH SERVICES DEPARTMENT

LOCAL ENFORCEMENT AGENCY

In the Matter of:) AMENDED NOTICE AND ORDER TO
INYO COUNTY DEPARTMENT OF) CEASE AND DESIST, NO. 10-02
SOLID WASTE, OPERATOR AND)
UNITED STATES DEPARTMENT OF) PUBLIC RESOURCES CODE
THE INTERIOR, BUREAU OF LAND) (\$45000, 45005, 45011, 45023) ,
MANAGEMENT, OWNER) CALIFORNIA CODE OF REGULATIONS,
RE: **TECOPA LANDFILL**) TITLE 14, (\$18304 and 18304.1)
FACILITY NO. 14-AA-0007)

TO: Mr. Chuck Hamilton, Director, Inyo County Department of Solid Waste, operator of the Shoshone Landfill, 163 May Street, Bishop, California, 93514 and Ms. Roxie Trost, Manager, United States Department of the Interior, Bureau of Land Management, Barstow Field Office, property owner, 2601 Barstow Drive, Barstow, CA 92311.

PLEASE TAKE NOTICE THAT:

WHEREAS, the Tecopa Landfill ("Facility") is located approximately one mile east of the community of Tecopa, County of Inyo, California, 92384, (APN 46-310-04-02); and

WHEREAS, the County of Inyo Environmental Health Services Department as the Local Enforcement Agency (LEA) has authority to exercise enforcement and regulatory powers relating to solid waste and this specific Facility pursuant to Public Resource Code (PRC) §43211 et seq., and is so acting in such capacity; and

1 WHEREAS, the Inyo County Department of Solid Waste is managing and operating a
2 solid waste operation in the form of a solid waste landfill (the "Tecopa Landfill") on property
3 presently leased to the County of Inyo for such purposes by the United States Department of the
4 Interior, Bureau of Land Management, the legal owner of the property; and

5 WHEREAS, the operation of the Tecopa Landfill has been ongoing on the property
6 without filing an application for the five year permit review, pursuant to California Code of
7 Regulations (CCR), Title 27, Section 21640; and

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9 WHEREAS, the Inyo County Environmental Health Services Department, as Local
10 Enforcement Agency, issued Notice and Order to Cease And Desist, No. 09-02, to both the Inyo
11 County Department of Solid Waste (operator) and the United States Department of the Interior,
12 Bureau of Land Management (owner) on April 1, 2009, which stayed the Cease and Desist Order
13 until April 1, 2010, and

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15 WHEREAS, the Inyo County Board of Supervisors has passed a resolution requesting the
16 initiation of procedures to transfer the ownership of the landfill property from United States
17 Department of the Interior, Bureau of Land Management to the County of Inyo, expected to be
18 finalized in the summer of 2010, and

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20 WHEREAS, this Amended Notice and Order to Cease and Desist, No. 10-02, does
21 hereby supersede Notice and Order to Cease and Desist, No. 09-02, and

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23 AND WHEREAS, the operator and property owner are in violation of CCR, Title 27,
24 Section 21640, for failure to submit the five year permit review package to the EA ,
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2 **THEREFORE, PURSUANT TO PUBLIC RESOURCE CODE SECTIONS 45005, 45011,**
3 **AND 45023 THE INYO COUNTY DEPARTMENT OF SOLID WASTE AND THE**
4 **UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND**
5 **MANAGEMENT ARE ORDERED TO:**

- 6 1. Submit the five year permit review application package to the Local Enforcement
7 Agency, in full, including the preliminary closure postclosure maintenance plans
8 (PCPMP's), but minus the owner's signature, by April 1, 2010.
9 2. Submit the approved five year permit application to the Local Enforcement Agency, as
10 soon as possible after the land transfer has been completed, but no later than October 1,
11 2010.
12 3. Cease operations of the Facility until the five year permit review application package is
13 filed with the Local Enforcement Agency.
14 4. This Cease and Desist Order shall be stayed until October 1, 2010, in order to provide
15 the operator and property owner time to complete the land transfer and allow the five
16 year permit review application to be signed by the County of Inyo, the new
17 landowner.

18 **PLEASE TAKE NOTICE THAT PURSUANT TO PUBLIC RESOURCE CODE**
19 **SECTIONS 45000, 45005, 45011, 45023, if the above actions are not completed or complied with**
20 **by the specified dates, the LEA may:**

- 21 1. Impose administrative civil penalties in an amount not to exceed \$5,000 per day for each
22 day the Facility fails to achieve compliance with the time frames specified above. [PRC
23 Section 45011]
24 2. Petition the superior court for injunctive relief to enforce this Amended Notice and
25 Order. [PRC Section 45014].
26 3. Petition the superior court for civil penalties in an amount not to exceed \$10,000 per day
27 for each violation. [PRC Section 45023 and 45024]

1 In the event the time frames for completion of the above specified activities cannot be
2 adhered to due to factors not in the control of the operator, then the LEA may extend the time
3 frames based upon those specific factors provided by the operator in writing. Any such extension to
4 the time frames or other amendment to this Amended Notice and Order shall be in the form of an
5 Amended Notice and Order.

6 Failure to remedy the aforementioned violation(s) by the required date(s) may result in
7 the LEA expending available funds to perform any cleanup, abatement, or remedial work
8 required under the circumstances set forth in PRC section 45000 which, in the judgement of the
9 LEA or the California Integrated Waste Management Board (CIWMB), is required by the
10 magnitude of endeavor or the need for prompt action to protect public health and safety or the
11 environment. If the LEA or the CIWMB expends funds to perform any cleanup, abatement, or
12 remedial work, the LEA or the CIWMB may seek cost reimbursement from responsible parties,
13 pursuant to 48020 et seq.

14 Nothing in this Amended Notice and Order shall constitute or be construed as a
15 satisfaction or release from liability for any conditions or claims arising as a result of past,
16 current, or future operations. Notwithstanding compliance with the terms of this Amended
17 Notice and Order, the owner and operator may be required to take further actions as necessary to
18 protect the public health, safety, or the environment.

19 The EA shall not be liable for injuries or damages to persons or property resulting from
20 acts or omissions by the owner or operator or related parties in carrying out activities pursuant to
21 this Amended Notice and Order, or from the issuance of the cease and desist order and closure of
22 the facility, nor shall the EA be held as a party to any contract entered into by the owner or
23 operator or their agent(s) in carrying out activities pursuant to this Amended Notice and Order.

24 This Amended Notice and Order is supported by the accompanying declaration of Marvin
25 Moskowitz, Inyo County Director of Environmental Health Services.
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1 This Amended Notice and Order does not relieve the owner or operator from complying
2 with all other local, state, and federal requirements, nor does it preclude the LEA or the CIWMB
3 from taking any and all other actions allowed by law.

4 This Amended Notice and Order may only be amended in writing by an appropriate
5 representative of the LEA.

6 **PLEASE TAKE NOTICE THAT THIS ORDER WAS DEVELOPED IN**
7 **CONSULTATION WITH THE OPERATOR AND THAT:**

- 8 1. Persons or entities subject to this action have the right to appeal this Amended Notice
9 and Order to the Hearing Panel. [PRC Section 44307]
10 2. If you wish to appeal this Amended Notice and Order to the Hearing Panel, you must
11 do so by submitting a written request for a hearing to the undersigned, together with a
12 statement of issues on which your appeal is based, within 15 days from the date you
13 receive this Amended Notice and Order. [PRC Section 44310]

14 This Amended Notice and Order is issued as of the date set forth below.

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16 By: Marvin Moskowitz
17 Marvin Moskowitz, Director

Dated: 2-2-10

18 Inyo County Environmental Health Services Department
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Marvin Moskowitz
Director



Telephone (760) 878-0238
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COUNTY OF INYO
ENVIRONMENTAL HEALTH SERVICES
P.O. BOX 427
INDEPENDENCE, CA 93526

DECLARATION

I, Marvin Moskowitz, declare under perjury that the following is true and correct:

1. I am duly employed as the Director of Environmental Health services for the County of Inyo.
2. The allegation of the foregoing ***AMENDED NOTICE AND ORDER # 10-02*** is known to me of my personal knowledge to be correct. This knowledge was obtained by:
 - a) A review of records on file at the offices of the Inyo County Department of Environmental Health Services.

Executed at 168 N. Edwards Street, Independence, California 93526, on February 2, 2010.

Marvin Moskowitz, REHS
Director,
Inyo County Local Enforcement Agency